

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND DIVISION

SHANNON SMITHERS, KEITH DAIGLE, §	C.A. NO. 7:14-cv-00059-RAJ
JONATHAN FARIS, JONATHAN §	
WATSON, CHRIS WELLS, BRAD §	
WILLARD, MIGUEL HERNANDEZ, and §	
JOHN FRANKLIN and CARL BLYSTONE §	JUDGE ROBERT A. JUNELL
§	
V. §	
§	
SWIRE OILFIELD SERVICES L.L.C. §	<b>JURY TRIAL REQUESTED</b>

**JOINT MOTION FOR APPROVAL OF**  
**SETTLEMENT AND DISMISSAL**

COME NOW Plaintiffs, Mr. Shannon Smithers, Mr. Keith Daigle, Mr. Jonathan Faris, Mr. Jonathan Watson, Mr. Chris Wells, Mr. Brad Willard, Mr. Miguel Hernandez, Mr. John Franklin and Mr. Carl Blystone (collectively “Plaintiffs”), and Defendant Swire Oilfield Services, L.L.C. (“Defendant”), and file this Joint Motion for Approval of Settlement and Dismissal and show the Court as follows:

1. Plaintiffs brought this suit under the Fair Labor Standards Act (“FLSA”) against Swire in Texas state court and alleged that during their employment as Water Transfer Technicians (“WTTs”) with Swire, Swire misclassified them as exempt; improperly paid them a salary rather than an hourly wage; and failed to pay them overtime for all hours worked in excess of forty (40) hours during each work week. On June 17, 2014, Swire removed the state court suit to this Court, the United States District Court for the Western District of Texas, Midland Division.

2. Following settlement discussions, the parties reached a settlement on August 22,

2014.

3. The terms of the settlement have been approved by Plaintiffs.

4. The parties submit this motion for approval of the settlement reached as a result of negotiations between the parties.<sup>1</sup>

5. The settlement reflects a reasonable compromise of issues actually in dispute, the settlement was reached in an adversarial context in which the Plaintiffs were represented by competent and experienced counsel, and the totality of the proposed settlement is fair and reasonable.

6. The parties stipulate that payment of the above mentioned settlement amount will be tendered by Defendant within thirty (30) days of Court approval of the Joint Motion for Approval of Settlement and Dismissal.

WHEREFORE PREMISES CONSIDERED, the parties pray that the Court approves this Motion and dismisses this lawsuit with prejudice.

Respectfully Submitted:

LOVELACE KILLEN, P.L.L.C.  
Koy R. Killen  
104 South Main Street  
Burleson, Texas 76028  
Telephone: (817) 447-0053  
Facsimile: (817) 447-0052

By: Koy R. Killen  
Koy R. Killen  
*Attorney for Plaintiffs*

---

<sup>1</sup> This Court's approval of the parties' settlement for Plaintiffs' FLSA claims may not be necessary; however, out of an abundance of caution, the parties ask for the Court's approval. See *Martinez v. Bohls Bearing Equip. Co.*, 361 F. Supp. 2d 608 (W.D.Tex. 2005).

FISHMAN HAYGOOD PHELPS  
WALMSLEY WILLIS & SWANSON, L.L.P.  
Loretta G. Mince  
Jeanette Donnelly  
201 St. Charles Avenue  
46th Floor  
New Orleans, LA 70170

HALL MAINES LUGRIN, P.C.  
William P. Maines  
Williams Tower, 64th Floor  
2800 Post Oak Blvd.  
Houston, Texas 77056-6125

By: Jeanette A. Donnelly  
Jeanette A. Donnelly  
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 22, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Koy Killen  
**LOVELACE KILLEN, P.C.**  
104 South Main Street  
Burleson, Texas 76028

Email: [kkillen@lovelacekillen.com](mailto:kkillen@lovelacekillen.com)  
Telephone: 817-447-0053  
Facsimile: 817-447-0052

/s/ Jeanette A. Donnelly  
Jeanette A. Donnelly